APPEAL NO. 030219
FILED MARCH 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 17, 2003, three cases were consolidated in one contested case hearing. In (Docket No. 1), the hearing officer determined that the appellant's (claimant) compensable injury of (date of injury for Docket No.1), does not include an injury to the claimant's cervical spine, and that the claimant did not have disability resulting from the compensable injury. In (Docket No. 2), the hearing officer determined that the claimant sustained a compensable injury on (date of injury for Docket No. 2), and that the respondent (carrier) waived the right to contest the compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021. In (Docket No. 3), the hearing officer determined that the claimant did not sustain a compensable injury on (date of injury for Docket No. 3), and that he did not have disability resulting from an injury on that date. The claimant appeals the extent-of-injury and disability determinations made in Docket No. 1 on sufficiency of the evidence grounds. The carrier responds, urging affirmance. The determinations made in Dockets Nos. 2 and 3 have not been appealed by either party and have become final. Section 410.169.

DECISION

Affirmed.

Whether the compensable injury extends to a particular body part is a question of fact for the fact finder. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determination on extent of injury is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer did not err in determining that the claimant did not have disability as a result of the compensable injury from (date of injury for Docket No.1), through the date of the hearing. Disability is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Whether the claimant's compensable low back injury was a cause of the claimant's inability to obtain and retain employment at

preinjury wages was a question of fact for the hearing officer to resolve. There is sufficient evidence to support the hearing officer's determination that the claimant did not have disability. Cain, *supra*.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **SENTRY INSURANCE, A MUTUAL COMPANY** and the name and address of its registered agent for service of process is

TREVA DURHAM
1000 HERITAGE CIRCLE
ROUND ROCK, TEXAS 78664.

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Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

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Elaine M. Chaney
Appeals Judge

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Gary L. Kilgore
Appeals Judge